CHAPTER 42

HOUSE BILL 2191

AN ACT

AMENDING TITLE 44, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 37; RELATING TO MUGSHOT WEBSITE OPERATORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 44, Arizona Revised Statutes, is amended by adding chapter 37, to read:

CHAPTER 37
MUGSHOT WEBSITE OPERATORS
ARTICLE 1. GENERAL PROVISIONS

44-7901. Definitions
IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
1. "BOOKING PHOTOGRAPH" MEANS A PHOTOGRAPH OF A SUBJECT INDIVIDUAL THAT IS TAKEN PURSUANT TO AN ARREST OR OTHER INVOLVEMENT IN THE CRIMINAL JUSTICE SYSTEM.
2. "COMMERCIAL PURPOSE" HAS THE SAME MEANING PRESCRIBED IN SECTION 39-121.03.
4. "MUGSHOT WEBSITE OPERATOR" MEANS A PERSON THAT PUBLISHES A CRIMINAL JUSTICE RECORD ON A PUBLICLY AVAILABLE INTERNET WEBSITE FOR A COMMERCIAL PURPOSE.
5. "PERSON" MEANS A NATURAL PERSON, PARTNERSHIP, ASSOCIATION, JOINT VENTURE, CORPORATION, LIMITED LIABILITY COMPANY, NONPROFIT ORGANIZATION OR TRUST OR ANY SIMILAR ENTITY OR ORGANIZED GROUP OF PERSONS.
6. "SUBJECT INDIVIDUAL" MEANS AN INDIVIDUAL WHO HAS BEEN ARRESTED.

44-7902. Mugshot website operators; prohibited acts; exceptions
A. A MUGSHOT WEBSITE OPERATOR THAT PUBLISHES A SUBJECT INDIVIDUAL'S CRIMINAL JUSTICE RECORD FOR A COMMERCIAL PURPOSE ON A PUBLICLY ACCESSIBLE WEBSITE IS DEEMED TO BE TRANSACTING BUSINESS IN THIS STATE.
B. A MUGSHOT WEBSITE OPERATOR MAY NOT USE CRIMINAL JUSTICE RECORDS OR THE NAMES, ADDRESSES, TELEPHONE NUMBERS AND OTHER INFORMATION CONTAINED IN CRIMINAL JUSTICE RECORDS FOR THE PURPOSE OF SOLICITING BUSINESS FOR PECUNIARY GAIN, INCLUDING REQUIRING THE PAYMENT OF A FEE OR OTHER VALUABLE CONSIDERATION IN EXCHANGE FOR REMOVING OR REVISION CRIMINAL JUSTICE RECORDS THAT HAVE BEEN PUBLISHED ON A WEBSITE OR OTHER PUBLICATION.
C. A SUBJECT INDIVIDUAL WHOSE CRIMINAL JUSTICE RECORD IS PUBLISHED IN VIOLATION OF SUBSECTION B OF THIS SECTION AND WHO SUFFERS A PECUNIARY LOSS OR WHO IS OTHERWISE ADVERSELY AFFECTED AS A RESULT OF A VIOLATION OF SUBSECTION B OF THIS SECTION HAS A CAUSE OF ACTION AGAINST THE PERSON RESPONSIBLE FOR THE VIOLATION AND MAY RECOVER DAMAGES IN ADDITION TO THE DAMAGES PRESCRIBED IN SUBSECTION D OF THIS SECTION IN ANY COURT OF COMPETENT JURISDICTION.
D. A PERSON THAT VIOLATES SUBSECTION B OF THIS SECTION IS LIABLE FOR DAMAGES FOR EACH SEPARATE VIOLATION IN AN AMOUNT OF AT LEAST:
1. $100 PER DAY DURING THE FIRST THIRTY DAYS OF THE VIOLATION.
2. $200 PER DAY DURING THE SUBSEQUENT THIRTY DAYS OF THE VIOLATION.
3. $500 per day for each day thereafter.

E. This article does not apply to any act performed for the purpose of disseminating news to the public, including the gathering, publishing or broadcasting information to the public for a news-related purpose, or to any act performed by a publisher, owner, agent, employee or retailer of a newspaper, radio station, radio network, television station, television broadcast network, cable television network or other online news outlet associated with any news organization in connection with the dissemination of news to the public, including the gathering, publishing or broadcasting information to the public for a news-related purpose.

F. This article does not apply to activities by a licensed attorney, private investigator or registered process server that are associated with purposes relating to a current or anticipated criminal or civil proceeding. This section does not affect the conduct of trials or the discovery process in any proceeding as otherwise provided by law or court rule.

Approved by the Governor April 1, 2019.

Filed in the Office of the Secretary of State April 1, 2019.